

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE	:	CHAPTER 13
	:	
SELECIA DURHAM,	:	CASE NO. 17-52973-LRC
	:	
Debtor.	:	
	:	
	:	
	:	
INDEPENDENT DEALERS	:	
ADVANTAGE, LLC,	:	
	:	
Movant,	:	
	:	CONTESTED MATTER
v.	:	
	:	
SELECIA DURHAM, Debtor;	:	
and ADAM M. GOODMAN, Trustee,	:	
	:	
Respondents.	:	

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN

COMES NOW Independent Dealers Advantage, LLC (the "Movant"), a creditor of the referenced Debtor, and hereby moves this Court to deny confirmation of Debtor's Chapter 13 Plan. In support of its objection, the Movant shows the Court as follows:

1.

On February 16, 2017, Selecia Durham ("Debtor") filed a Voluntary Petition pursuant to 11 U.S.C. Section 1301 et seq., and said case is presently pending before this Court.

2.

Movant has a net claim in this case in the approximate amount of \$17,550.33 secured by a 2010 Mazda Mazda3 (the "Collateral").

3.

Debtor's Chapter 13 Plan proposes to pay Movant's secured claim of \$17,550.33 at \$0.00 at 4.75%, with \$75.00 payments per month in pre-confirmation adequate protection and \$75.00 per month post-confirmation payments until December 2018, when payments will increase to

\$297.00.

4.

Movant should receive no less than retail value. The NADA value for the month this case was filed was \$8,825.00. See attached a copy of the referenced NADA Value. After including the \$900.00 mileage addition for 70,000 miles, the value increases to \$9,725.00. The plan must be amended to pay Movant the appropriate value. Evidence supporting any excessive depreciation must be provided in order for Debtor to reduce the value to one lower than the NADA retail value.

5.

Debtor is not providing Movant with an adequate enough risk factor. The prime rate of interest was 3.75% the month this case was filed. At the very least, Debtor should be offering a prime + 3% risk factor, plus a point to make up for lost interest based on the Trustee's method of accounting, or 7.75% interest. As the value and interest listed in the plan will not actually be paid by the Chapter 13 Trustee due to their accounting methods, Movant requests an extra point of interest to make up for the lost interest.

6.

The Collateral is depreciating through use and over time and the Debtor is not adequately protecting Movant's interest in the Collateral. Debtor is not proposing an appropriate pre-confirmation adequate protection payments in violation of 11 U.S.C. Section 1326(a)(1)(C).

Debtor's plan proposes to pay \$75.00 to Movant until December 2018. During this time, Debtor's counsel is set to receive \$222.00 each month. This is bad faith. Movant should receive no less than \$149.00 per month in pre- and post-confirmation payments prior to any step increase.

Any increase in pre-confirmation adequate protection payments prior to Confirmation needs to be made to have the effect of being retroactive to the filing date to pay Movant the correct amount of adequate protection (i.e., a lump sum amount that will be enough to make up for the difference in adequate protection previously disbursed by the Trustee and what Movant is entitled to).

7.

This case may not be feasible in contravention of 11 U.S.C. §1325(a)(6). Debtor bears the

burden of proving all elements of confirmation, including the feasibility of this case and should be required to produce documents to support all income and expenses listed on Schedules I and J.

8.

The specific terms of the proposed plan itself are not proposed in good faith in violation of 11 U.S.C. §1325(a)(3). Movant is the only secured creditor listed in the Plan. Debtor appears to be using this case to solely to refinance the Collateral.

9.

Movant has no proof of full coverage insurance on the Collateral and is therefore not adequately protected.

WHEREFORE, the Movant prays that its Objection to Confirmation of Chapter 13 Plan be inquired into and sustained and that it has such other and further relief as this Court deems just and proper.

This March 7, 2017.

The Law Office of
LEFKOFF, RUBIN, GLEASON & RUSSO, P.C.
Attorneys for Movant

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<i>Rough Trade-in</i>	<i>Average Trade-in</i>	<i>Clean Trade-in</i>	<i>Body Type</i>	<i>Model Number</i>	<i>MSRP</i>	<i>Weight</i>	<i>Clean Loan</i>	<i>Clean Retail</i>
5300	6250	7000	Wagon 5D s Sport	BL1K(5/6)	19685	3064	6300	9325
6925	7925	8725	Wagon 5D s GT	BL1M(5/6)	22895	N/A	7875	11200
8750	9800	10650	Wagon 5D SPEED (6 Spd.)	BL1K(3/4)	23340	3272	9600	13150

MAZDA2/MAZDA3 OPTIONS

	<i>Trade-in/Loan</i>	<i>Retail</i>		<i>Trade-in/Loan</i>	<i>Retail</i>
Add Aluminum/Alloy Wheels (Std. i Touring, s, SPEED)	300	350	Add Cruise Control (MAZDA2)	150	175
Add Bose Stereo (Std. GT)	225	250	Add Navigation System	375	425
Add Cert Pre-Owned (Mazda2)	500	500	Add Power Sunroof (Std. GT)	450	500
Add Cert Pre-Owned (Mazda3)	700	700	Ded W/out AT (Ex. SV, M-SPEED)	475	475

2011 MAZDA6-4 Cyl.

							<i>Mileage Class: II</i>	
4450	5425	6225	Sedan 4D i Sport	HZ8BH	19990	3272	5625	8525
5125	6125	6950	Sedan 4D i Touring	HZ8CH	22635	3272	6275	9325
5675	6725	7575	Sedan 4D i Touring Plus	HZ8CH	24240	3272	6825	10025
6225	7300	8175	Sedan 4D i GT	HZ8CH	26820	3272	7375	10675
5925	6975	7825	Sedan 4D s Touring Plus (V6)	HZ8CB	27080	3574	7050	10300
6675	7750	8625	Sedan 4D s GT (V6)	HZ8CB	29320	3574	7775	11175

2011 MX-5 MIATA-4 Cyl.-5/6 Spd.

							<i>Mileage Class: II</i>	
6775	7875	8750	Convertible 2D Sport	NC2JF	22960	2447	7875	11000
7750	8875	9800	Convertible 2D Touring	NC2LF	25300	2480	8825	12125
8375	9525	10450	Convertible 2D GT	NC2NF	26560	2511	9425	12825
8800	9975	10925	Hardtop 2D Touring	NC2MF	27000	2562	9850	13350
9450	10625	11575	Hardtop 2D GT	NC2PF	28400	2593	10425	14025

MAZDA6/MX-5 MIATA OPTIONS

	<i>Trade-in/Loan</i>	<i>Retail</i>		<i>Trade-in/Loan</i>	<i>Retail</i>
Add Alum/Alloy Wheels (6 Sport)	350	400	Add Navigation System	450	500
Add Automatic Trans. (Miata)	575	650	Ded W/out AT (Ex. Miata)	575	575
Add Cert Pre-Owned (MAZDA6)	750	750	Ded W/out Cruise Control	175	175
Add Cert Pre-Owned (Miata)	925	925	Ded W/out Power Door Locks	175	175
Add Detachable Hardtop	900	1000			

2011 RX-8-Rotary

							<i>Mileage Class: III</i>	
5125	6300	7275	Coupe 2D	FE1R(MP)	26795	3111	6550	9575
6400	7650	8675	Coupe 2D GT	FE1S(MP)	32260	N/A	7825	11125
5275	6450	7425	Coupe 2D (6 Spd.)	FE1R(2/4)	26795	3065	6700	9750
6550	7800	8850	Coupe 2D GT (6 Spd.)	FE1S(2/4)	32960	N/A	7975	11325
8200	9550	10650	Coupe 2D R3 (6 Spd.)	FE1T(2/4)	32290	N/A	9600	13275

Add Certified Pre-Owned

	<i>Trade-in/Loan</i>	<i>Retail</i>		<i>Trade-in/Loan</i>	<i>Retail</i>
	825	825	Add Navigation System	500	575

2010 MAZDA3-4 Cyl.

							<i>Mileage Class: I</i>	
3425	4275	4950	Sedan 4D i	BL1S(F/G)	15045	2868	4475	7050
4200	5075	5800	Sedan 4D s	BL1S(5/6)	18740	2963	5225	8000
4875	5800	6550	Wagon 5D s	BL1H(5/6)	19230	3005	5900	8825
6625	7625	8425	Wagon 5D SPEED (6 Spd.)	BL1H(3/4)	23195	3245	7600	10850

	<i>Trade-in/Loan</i>	<i>Retail</i>		<i>Trade-in/Loan</i>	<i>Retail</i>
Add A/A Wheels (Std. s, SPEED)	300	350	Add Power Locks (Std. s, SPEED)	150	175
Add Bose Stereo System	200	225	Add Power Seat	225	250
Add Cruise (Std. s, SPEED)	150	175	Add Power Sunroof	450	500
Add Leather Seats (Std. SPEED)	375	425	Ded W/out Air Conditioning	625	625
Add Navigation System	300	350	Ded W/out AT (Ex. MAZDASPEED)	400	400

2010 MAZDA6-4 Cyl.

							<i>Mileage Class: II</i>	
2975	3850	4575	Sedan 4D i SV (6 Spd.)	HZ8A(A/H)	18450	3258	4125	6650
3700	4625	5375	Sedan 4D i Sport	HZ8B(A/H)	19470	3258	4850	7575
4175	5125	5900	Sedan 4D i Touring	HZ8C(A/H)	21050	3258	5325	8150
4500	5475	6275	Sedan 4D i Touring Plus	HZ8C(A/H)	23900	3258	5650	8575
5025	6025	6850	Sedan 4D i GT	HZ8C(A/H)	26085	3258	6175	9225
5350	6375	7200	Sedan 4D s Touring Plus (V6)	HZ8CB	26450	3547	6500	9600
6025	7075	7925	Sedan 4D s GT (V6)	HZ8CB	28540	3547	7150	10400

*Rough
Trade-in*

2010 N
6075
6900
7400
7875
8675
MAZDI

Add A
Add A
Add D
Add N
2010 R
3925
5125
4125
5325
6375

Add N

2017 B

Add C
Ded V
2017 C

Add E
Add P
Add P
Add S
Add A
2017 C

Add A
Add D
Add S

F
E
B
2
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1
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MILEAGE TABLE

VALUES SHOWN BELOW TO BE ADJUSTED FROM BASE GUIDEBOOK VALUES

MILEAGE	CLASS	2017	2016	2015	2014	2013	2012	2011	2010
50001 to 55000	I	-2400	-1650	-975	-350	225	725	1175	1525
	II	-3150	-2175	-1275	-450	275	975	1550	2025
	III	-3925	-2700	-1575	-575	350	1175	1900	2475
	IV	-5725	-3950	-2300	-825	525	1750	2825	3700
	V	-8175	-5625	-3300	-1175	750	2500	4000	5225
55001 to 60000	I	-2650	-1900	-1200	-575		500	950	1300
	II	-3475	-2475	-1575	-775		650	1250	1725
	III	-4325	-3100	-1975	-950		800	1525	2100
	IV	-6300	-4500	-2875	-1400		1200	2275	3150
	V	-9000	-6450	-4100	-1975		1700	3225	4450
60001 to 65000	I	-2875	-2125	-1450	-800	-225	275	725	1100
	II	-3775	-2800	-1900	-1075	-300	375	950	1450
	III	-4700	-3475	-2350	-1325	-375	450	1175	1775
	IV	-6850	-5075	-3425	-1925	-550	675	1750	2625
	V	-9800	-7250	-4900	-2750	-775	950	2475	3725
65001 to 70000	I	-3125	-2375	-1675	-1025	-450		525	900
	II	-4075	-3100	-2200	-1350	-575		675	1175
	III	-5100	-3875	-2725	-1675	-725		825	1425
	IV	-7400	-5625	-3975	-2450	-1075		1225	2125
	V	-10600	-8050	-5700	-3525	-1525		1750	3025
70001 to 75000	I	-3350	-2600	-1900	-1250	-650	-125	325	700
	II	-4375	-3400	-2475	-1650	-850	-175	425	925
	III	-5475	-4250	-3100	-2050	-1075	-200	525	1125
	IV	-7950	-6175	-4500	-2975	-1550	-300	775	1675
	V	-11400	-8850	-6450	-4250	-2225	-425	1075	2350
75001 to 80000	I	-3575	-2825	-2125	-1475	-850	-325	125	500
	II	-4675	-3700	-2775	-1925	-1125	-425	175	675
	III	-5850	-4625	-3450	-2400	-1400	-525	225	825
	IV	-8475	-6700	-5025	-3475	-2050	-775	325	1225
	V	-12150	-9600	-7200	-5000	-2925	-1100	450	1750
80001 to 85000	I	-3800	-3050	-2325	-1675	-1050	-500		350
	II	-4950	-3975	-3050	-2200	-1375	-675		450
	III	-6225	-4975	-3825	-2725	-1725	-825		550
	IV	-9000	-7225	-5550	-3975	-2525	-1225		800
	V	-12925	-10375	-7950	-5700	-3600	-1725		1150
85001 to 90000	I	-4025	-3275	-2550	-1875	-1250	-700	-225	175
	II	-5250	-4250	-3325	-2450	-1650	-900	-275	225
	III	-6575	-5350	-4175	-3075	-2050	-1125	-350	275
	IV	-9525	-7750	-6050	-4450	-2975	-1650	-500	425
	V	-13675	-11100	-8675	-6400	-4275	-2350	-725	600
90001 to 95000	I	-4225	-3475	-2750	-2075	-1450	-875	-375	
	II	-5525	-4550	-3600	-2725	-1900	-1150	-500	
	III	-6925	-5700	-4500	-3400	-2350	-1425	-625	
	IV	-10025	-8250	-6525	-4925	-3425	-2075	-900	
	V	-14425	-11850	-9375	-7075	-4925	-2975	-1300	
95001 to 100000	I	-4450	-3675	-2950	-2275	-1625	-1050	-550	-125
	II	-5800	-4800	-3875	-2975	-2125	-1375	-700	-175
	III	-7300	-6050	-4850	-3725	-2675	-1700	-875	-200
	IV	-10525	-8725	-7025	-5400	-3875	-2500	-1300	-300
	V	-15150	-12550	-10075	-7750	-5550	-3575	-1850	-425

ADDITION FOR LOWER MILEAGE SHOULD NOT EXCEED 50% OF TRADE-IN VALUE
DEDUCTION FOR HIGHER MILEAGE SHOULD NOT EXCEED 40% OF TRADE-IN VALUE

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE	:	CHAPTER 13
	:	
SELECIA DURHAM	:	CASE NO. 17-52973-LRC
	:	
Debtor.	:	
	:	
	:	
INDEPENDENT DEALERS	:	
ADVANTAGE, LLC,	:	
	:	
Movant,	:	
	:	CONTESTED MATTER
v.	:	
	:	
SELECIA DURHAM, Debtor;	:	
and ADAM M. GOODMAN, Trustee,	:	
	:	
Respondents.	:	

CERTIFICATE OF SERVICE

The undersigned, Philip L. Rubin, hereby certifies that I am, and at all times hereinafter mentioned, was more than 18 years of age, and that I served the OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN on the following parties 1) electronically, if allowed by and pursuant to the requirements of local rule, or 2) by depositing same in the United States Mail in properly addressed envelope(s) with adequate postage to all others, as follows:

Selecia Durham
2637 Cavalier Drive
Decatur, GA 30034

Carson R. Walden
Suite 757
315 W. Ponce de Leon Avenue
Decatur, GA 30033

Adam M. Goodman
Chapter 13 Trustee
260 Peachtree Street
Suite 200
Atlanta, GA 30303

This March 7, 2017.

The Law Office of
LEFKOFF, RUBIN, GLEASON & RUSSO, P.C.
Attorneys for Movant

By: /s/Philip L. Rubin
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Georgia State Bar No. 618525

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